

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 31 MAR 2006

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Applicant's or agent's file reference 07961.105006	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/US04/30647	International filing date (day/month/year) 20 September 2004 (20.09.2004)	Priority date (day/month/year) 19 September 2003 (19.09.2003)	
International Patent Classification (IPC) or national classification and IPC IPC(8): A01N 25/02 and US Cl.: 424/400			
Applicant ARCH CHEMICALS, INC.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>14</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of ___ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 19 April 2005 (19.04.2005)		Date of completion of this report 04 February 2006 (04.02.2006)	
Name and mailing address of the IPEA/ US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201		Authorized officer <i>Edward J. Webman</i> Telephone No. 571-272-1600	

Form PCT/IPEA/409 (cover sheet)(April 2005)

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/30647

## Box No. I Basis of the report

## 1. With regard to the language, this report is based on:

- ☒ the international application in the language in which it was filed.
- ☐ a translation of the international application into English, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
- ☐ publication of the international application (under Rule 12.4(a))
- ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

- ☒ the international application as originally filed/furnished
- ☒ the description:  
pages 1-76 as originally filed/furnished  
pages\* NONE received by this Authority on \_\_\_\_\_  
pages\* NONE received by this Authority on \_\_\_\_\_
- ☒ the claims:  
pages 77-80 as originally filed/furnished  
pages\* NONE as amended (together with any statement) under Article 19  
pages\* NONE received by this Authority on \_\_\_\_\_  
pages\* NONE received by this Authority on \_\_\_\_\_
- ☒ the drawings:  
pages 1 as originally filed/furnished  
pages\* NONE received by this Authority on \_\_\_\_\_  
pages\* NONE received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☒ The amendments have resulted in the cancellation of:

- ☒ the description, pages NONE
- ☒ the claims, Nos. NONE
- ☒ the drawings, sheets/figs NONE
- ☒ the sequence listing (*specify*): NONE
- ☒ any table(s) related to the sequence listing (*specify*): NONE

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to the sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/US04/30647**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

## 1. Statement

Novelty (N)	Claims <u>NONE</u>	YES
	Claims <u>1-32</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-32</u>	NO
Industrial Applicability (IA)	Claims <u>1-32</u>	YES
	Claims <u>NONE</u>	NO

## 2. Citations and Explanations (Rule 70.7)

Claims 1-32 meet the requirements of PCT Article 33(4) because the claimed invention has industrial utility as a preservative composition.

Claims 1-14, 17-18, 22-23, 27 lack novelty under PCT Article 33(2) as being anticipated by DECKNER et al. DECKNER et al teach a skin care composition (title). IPBC is disclosed at 0.001-5% (column 7 lines 3-15, 22-24). Amphoteric surfactants at 0.05-5%, including betaines, sultaines, alkyl imino acetates, iminodialkanoates, and imidazolinium derivatives are specified (column 14 lines 10-12, column 16 lines 48-63). As to the particular claimed amphoteric compounds, applicants stipulate that they are all items of commerce. Antifoaming agents are disclosed (column 25 lines 27-28).

Claims 1, 14-17, 19-21, 24-26, 28-32 lack novelty under PCT Article 33(2) as being anticipated by POPPEN et al.

POPPEN et al teach a wood-protecting agent (title). Propiconazole, IPBC, and betaines are disclosed (column 3 lines 40-41, 62, column 4 lines 6-7). Antifoaming agents are specified (column 5 lines 59-60).

## ----- NEW CITATIONS -----

US 6,429,182 A (JULEMONT et al) 06 August 2002, title, column 2 lines 10-44, column 1 lines 33-35, column 6 lines 63-65, column 5 lines 45-57).

US 5,968,528 A (DECKNER et al) 19 October 1999, title, column 7 lines 3-15, 22-24. column 16 lines 48-62, column 14 lines 10-12, column 25 lines 27-28).

US 6,123,756 A (POPPEN et al) 26 September 2000, title, column 2 lines 43-45, column 3 lines 40-41, column 4 lines 6-7, column 5 lines 59-60.

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**Box No. VII** Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

Claim 9 is objected to under PCT Article 5 as containing a minor defect. In claim 9 "to3" is indefinite. A space between "to" and "3" is suggested.